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International Residual Mechanism for Criminal Tribunals

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International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the sixth annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1).

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Letter of transmittal

Letter dated 1 August 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the sixth annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2018, to the General Assembly and to the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

Summary

Sixth annual report of the International Residual Mechanism for Criminal Tribunals

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2017 to 30 June 2018.

The Mechanism was established by the Security Council in resolution 1966 (2010) to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia after the closure of the two Tribunals. Those functions include attending to a wide range of judicial matters, locating and arresting remaining fugitives, providing protection to witnesses, supervising the enforcement of sentences and managing the archives of the two Tribunals. The Mechanism operates through its branches in Arusha, United Republic of Tanzania, and The Hague, the Netherlands, and is guided in its activities by the Security Council's emphasis on it being a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions.

As recognized by the Office of Internal Oversight Services (OIOS) in its evaluation of the methods and work of the Mechanism, the Mechanism has made progress towards realizing its mandate to be small and efficient through a gradual and multidimensional process, requiring both intra-office integration and inter-branch coordination. According to the OIOS report on the Mechanism issued in March 2018 (S/2018/206), all organs of the Mechanism have drawn on operational innovations to streamline workflows, increase cost-efficiency and establish operational responses to dynamic workloads. Those strengths served the Mechanism well during the reporting period, as it weathered unexpected budgetary challenges while beginning to operate, for the first time since its establishment, without the support of its predecessor Tribunals. Those strengths likewise reflect the Mechanism's continued focus on consolidating best practices and actively pursuing new ways to improve operations, procedures and working methods so as to maximize efficiency and effectiveness.

During the reporting period, the President continued to supervise matters relating to the management of the Mechanism, coordinate the work of the Chambers and preside over the Appeals Chamber, and he issued decisions and orders on a number of issues, including the enforcement of sentences and legal aid. The Appeals Chamber issued one appeal judgment and, as at 30 June 2018, was seized of, inter alia, two appeals from judgment, one request for review of judgment and one appeal related to a referred case. The Appeals Chamber has issued a number of decisions and orders in those and other cases. The Mechanism's Trial Chamber at The Hague branch continued evidentiary hearings in a retrial that commenced in June 2017. In addition, single judges issued a large number of decisions and orders on a range of matters, including on providing assistance to national jurisdictions by ruling on requests for variations of protective measures and requests for access to confidential information. Both the President and the judges contributed to the further development of the Mechanism's legal and regulatory framework during the reporting period, including through the revision by the judges of their code of professional conduct in order to establish a disciplinary procedure for the judges and thereby enhance judicial accountability.

The Office of the Prosecutor focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions in prosecuting international crimes committed in the former

Yugoslavia and Rwanda. The Office of the Prosecutor also continued to perform its responsibilities in respect of other residual functions, including handling the large volume of non-trial and appeal litigation before the Mechanism.

The Registry continued to provide and coordinate administrative, legal, policy and diplomatic support services for the Mechanism throughout the reporting period. As part of its substantive functions, the Registry offered protection and support services to witnesses, worked on multiple aspects of the enforcement of sentences handed down by the Tribunals and managed the archives of the Tribunals. As part of its administrative functions, the Registry completed the establishment of its own administration which, for the first time since the inception of the Mechanism, provided services to the institution without the support of the Tribunals.

I. Introduction

1. The sixth annual report of the International Residual Mechanism for Criminal Tribunals outlines the activities of the Mechanism for the period from 1 July 2017 to 30 June 2018.

2. The Mechanism's mandate includes ensuring the trial of the remaining fugitives. While the International Tribunal for the Former Yugoslavia had no outstanding fugitives charged with serious violations of international humanitarian law at the time of its closure, eight individuals indicted by the International Criminal Tribunal for Rwanda are still at large. Three of the eight are expected to be tried by the Mechanism, and the cases of the remaining five have been referred to Rwanda for trial.

3. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the modalities specified in the transitional arrangements. The activities include the retrial of cases completed by the two Tribunals, appeals of their judgments and sentences, reviews of their proceedings and contempt of court and false testimony cases.

4. In addition, the Mechanism has been tasked with responsibility for certain functions of the two Tribunals, including: providing protect and support to victims and witnesses who have testified in the Tribunals' cases; management of the Tribunals' archives; supervision of the enforcement of sentences handed down by the Tribunals; responding to requests for assistance from national jurisdictions; and monitoring cases referred to national courts by the Tribunals.

5. During the reporting period, the Mechanism conducted a range of judicial and other activities within its remit and further developed its legal and regulatory framework, including through the adoption of a revision to its code of judicial conduct in order to establish a disciplinary procedure for the judges. In addition, and for the first time since its opening, the Mechanism stood on its own without the support of its predecessor Tribunals following the closure of the International Tribunal for the Former Yugoslavia in December 2017. Unanticipated budgetary challenges during the reporting period exposed the Mechanism to operational risks and had a negative impact on its ability to perform its mandated activities smoothly and efficiently. Nevertheless, the Mechanism continued to strive to carry out its mandated functions to the highest possible standards and to seek new ways to improve its operations, procedures and working methods so as to maximize effectiveness and efficiency.

II. Activities of the Mechanism

A. Organization

6. In its resolution 1966 (2010), the Security Council established that the Mechanism would operate for an initial four-year period, starting from 1 July 2012. Unless the Council decides otherwise, the Mechanism shall continue to operate for subsequent periods of two years, following reviews by the Council of the progress of the Mechanism's work, including in completing its functions. The Council completed its first review of the progress of the Mechanism's work in December 2015, as set forth in Council resolution 2256 (2015) and reflected in General Assembly resolution 70/227, and completed its second review of the progress of the Mechanism's work in June 2018, as set forth in Council resolution 2422 (2018).

7. The Mechanism consists of three organs, which serve both branches of the Mechanism: (a) the Chambers, from which single judges can be appointed and trial and appeal benches formed as needed, and which is presided over by the President;

(b) the Prosecutor; and (c) the Registry, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.

8. Each organ is headed by a full-time principal, common to both branches. The President of the Mechanism, who is primarily based at The Hague branch, is Judge Theodor Meron. The Prosecutor for the Mechanism, who is primarily based at the Arusha branch, is Serge Brammertz. The Registrar of the Mechanism, Olufemi Elias, will also be based primarily at the Arusha branch. In June 2018, Judge Meron was reappointed as President, with that reappointment effective from 1 July 2018 to 18 January 2019. Judge Carmel Agius was appointed to serve as his successor as President, with effect from 19 January 2019 to 30 June 2020. Prosecutor Brammertz was reappointed to a new term, with effect from 1 July 2018 to 30 June 2020.

9. As set forth in its statute, the Mechanism shall have a roster of 25 independent judges. During the reporting period, and in accordance with article 10 (2) of the statute, the Secretary-General appointed Judge Elizabeth Ibanda-Nahamya to serve as a judge of the Mechanism following the resignation of Judge Solomy Balungi Bossa. In June 2018, and further to Security Council resolution 2269 (2016) and article 10 (3) of the statute of the Mechanism, the Secretary-General reappointed 23 of the 25 judges for a new two-year term, with effect from 1 July 2018 to 30 June 2020. Of the two remaining judges, one declined to seek reappointment while the other's reappointment was denied.

B. Legal and regulatory framework

10. As provided by article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence of the Mechanism and any such amendments shall take effect upon adoption by the judges, unless the Security Council decides otherwise. During the reporting period, the judges conducted a plenary by remote written procedure in accordance with the Rules of Procedure and Evidence and adopted certain amendments to the Rules on 9 April 2018. The judges also adopted a revision to the Code of Professional Conduct for the Judges of the Mechanism, adding a disciplinary procedure for the judges that draws upon best practices in the field and reflects a significant milestone for the institution.

11. The Mechanism further developed procedures and policies, building upon the best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. During the reporting period, the President issued a practice direction on the use of the electronic case management system and revised practice directions on the procedures for amending the Rules of Procedure and Evidence and for the determination of applications for pardon, commutation of sentence and early release. In addition, the Registrar completed the Mechanism's regulatory framework for legal aid by adopting policies on the remuneration of defence counsel in post-conviction proceedings and on the appointment and remuneration of *amici curiae* investigators and prosecutors, as well as guidelines concerning the determination of the indigency status of applicants for legal aid. Furthermore, the Registrar adopted a policy on translation for the conduct of judicial activities, a policy on interpretation and a code of ethics for interpreters and translators.

C. Mechanism Coordination Council

12. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the

Mechanism. The Council has met to discuss matters concerning planning for the biennium 2018–2019, the transition of functions from the International Tribunal for the Former Yugoslavia to the Mechanism and other matters of common concern.

D. Rules Committee

13. In September 2017, the Mechanism's Rules Committee submitted its second report to the judges on proposed amendments to the Rules of Procedure and Evidence, and amendments to the Rules were adopted by the judges on 9 April 2018, as indicated above.

E. Coordination with the International Tribunal for the Former Yugoslavia

14. The Mechanism continued to benefit greatly from the operational and administrative support provided by the International Tribunal for the Former Yugoslavia until that Tribunal's closure at the end of December 2017. Close cooperation between the two institutions ensured the efficient and smooth completion of the transition of the remaining essential functions and services of the Tribunal to the Mechanism.

III. Activities of the President and the Chambers

A. Principal activities of the President

15. The President, in his capacity as the head of the Mechanism, engaged in many issues related to the representation and management of the Mechanism throughout the reporting period. He represented the Mechanism in a variety of external forums, developed and contributed to the development of various policies and guidance documents, including with respect to translation, interpretation, the Mechanism's legal aid system and occupational safety and health, issued a new practice direction on the use of the electronic court management system and held regular meetings with the Registrar on operational matters subject to the President's overall authority.

16. Pursuant to the statute, during the reporting period, the President submitted two six-monthly reports to the Security Council on the progress of the Mechanism (S/2017/971 and S/2018/471) and twice briefed the Council on the work of the Mechanism, in December 2017 and June 2018. Also as mandated by the statute, the President submitted the Mechanism's annual report to the General Assembly and the Council (A/72/261-S/2017/661) and briefed the Assembly in November 2017. Finally, in accordance with the statement by the President of the Security Council of 19 March 2018 (S/PRST/2018/6), in April 2018 the President submitted the Mechanism's report on the progress of its work, including in completing its functions, since the last review of the Mechanism in December 2015 (S/2018/347).

17. During the reporting period, the President engaged with State officials in Arusha, The Hague and other locations, as well as with victims' groups and members of civil society. In addition, the President and senior staff members in the Chambers exchanged information and views with representatives from other courts and tribunals in order to identify and share best practices in the field of fair and expeditious case management.

18. In his judicial capacity, the President continued to coordinate the work of the Chambers with a view to achieving efficiencies and making the best use of the diverse

array of judicial expertise and legal cultures reflected in its roster of judges, including by providing a broad distribution of judicial work among the judges; ensuring the full readiness of the Chambers in the event of the apprehension of fugitives; and working with fellow judges and senior staff to enhance the smooth and cost-effective functioning of the Chambers more generally. In that regard, the President welcomed the March 2018 evaluation by OIOS of the methods and work of the Mechanism, wherein OIOS found that the Chambers had systematically planned for and transformed their organizational structure and working methods to maximize the full capacity of a leaner staff size with financial prudence, and that Chambers management had optimized workflow and established seamless integration between Arusha and The Hague, enabling the small staff team in the Chambers to support remote judges to their "great satisfaction".[1]

19. During the reporting period, the President also issued numerous assignment orders and ruled on requests for administrative review and legal aid. In addition, the President presided over the Appeals Chamber and served as the pre-appeal judge in the cases of *Radovan Karadžić*, *Ratko Mladić* and *Vojislav Šešelj*. With respect to the supervision of the enforcement of sentences, the President issued numerous decisions and orders relating to applications for the early release of persons convicted by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia and other public and confidential matters. He also addressed reports and complaints concerning the conditions of detention of convicted persons serving sentences under the supervision of the Mechanism.

B. Principal activities of single judges

20. During the reporting period, nearly two thirds of the judges on the roster of the Mechanism, serving as single judges in accordance with the statute of the Mechanism, were seized of and issued decisions or orders in relation to numerous requests arising in matters at both branches. Those requests concerned, inter alia, assistance to national jurisdictions, access to confidential information, the variation of protective measures, the disclosure of exculpatory information, allegations of contempt and false testimony and changes in the classification of filings. Collectively, 106 decisions or orders were issued by single judges during the reporting period and, as at 30 June 2018, five single judges were seized of matters relating to allegations of contempt of court and false testimony, requests relating to protective measures for victims and witnesses, and an allegation of a breach of the *non bis in idem* principle. In addition, a judge of the Mechanism was seized with three requests to disqualify three judges assigned to hear the *Mladić* appeal.

C. Principal activities of the Trial Chambers

21. In the case of *Jovica Stanišić and Franko Simatović*, the Trial Chamber at The Hague branch continued to hear the presentation of the Prosecution's case, which commenced on 13 June 2017. During the reporting period, the Trial Chamber issued 128 decisions or orders, including on trial modalities, the admission of evidence and provisional release. The trial is ongoing.

[1] See S/2018/206, para. 19.

D. Principal activities of the Appeals Chamber

22. On 11 April 2018, the Appeals Chamber delivered its judgment in the *Šešelj* case. In the appeal judgment, the Appeals Chamber reversed Vojislav Šešelj's acquittals, in part, and convicted him of instigating persecution (forcible displacement), deportation and other inhumane acts (forcible transfer) as crimes against humanity, and for committing persecution (violation of the right to security) as a crime against humanity in Hrtkovci, Vojvodina (Serbia). The Appeals Chamber sentenced Šešelj to 10 years of imprisonment, but declared the sentence served in view of the credit to which he was entitled under the Rules of Procedure and Evidence. During the reporting period, the Appeals Chamber also heard oral arguments on the Prosecution's appeal on 13 December 2017 and issued six decisions and orders.

23. As at 30 June 2018, the Appeals Chamber continued to be seized of appeal proceedings in the *Karadžić* case, in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 24 March 2016. The Appeals Chamber granted in part requests for extensions of time for the briefing, totalling 217 days of extensions. The briefing process concluded on 6 April 2017 and the appeals were heard on 23 and 24 April 2018. The Appeals Chamber held in-person deliberations following the hearing, and judgment drafting is in progress. During the reporting period, the Appeals Chamber issued 37 decisions or orders in relation to that case.

24. The Appeals Chamber is also seized of appeal proceedings in the *Mladić* case, in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 22 November 2017. The briefing process is underway. During the pre-appeal proceedings in the reporting period, the Appeals Chamber issued 20 decisions or orders in relation to the case, which is being prepared for a hearing of the appeals.

25. On 19 June 2017, the Appeals Chamber granted the request for review filed by Augustin Ngirabatware and ordered the parties to file a list of proposed evidence and witnesses to be introduced at a review hearing. On 19 December 2017, the Appeals Chamber authorized the replacement of Ngirabatware's counsel in view of a conflict of interest. Following the replacement of counsel, the pre-review judge ordered Ngirabatware and the Prosecution to file by the end of June 2018 a list of anticipated witnesses and evidence to be heard at a forthcoming review hearing. The hearing is expected to occur in the second half of 2018. During the reporting period, the Appeals Chamber issued 25 decisions or orders related to the case.

26. The Appeals Chamber also considered a variety of matters during the reporting period relating to requests for review and protective measures. As at 30 June 2018, the Appeals Chamber remained seized of, among other things, an appeal filed by the *amicus curiae* prosecutor of a decision by a single judge to refer the contempt case of *Petar Jojić and Vjerica Radeta* to Serbia.

IV. Activities of the Office of the Prosecutor[2]

A. Introduction

27. During the reporting period, the Office of the Prosecutor continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions in prosecuting international crimes committed in the former Yugoslavia and Rwanda.

[2] The present section reflects the views of the Prosecutor of the Mechanism.

28. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, paragraphs 18, 19 and 20 of its resolution 2256 (2015). The Office continued to implement the "one office" policy to further streamline operations and reduce costs by effectively integrating staff and resources across both branches. The Office also completed the coordinated transition of other functions from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

B. Trials and appeals

29. During the reporting period, the Office of the Prosecutor took all steps under its control to expedite the completion of the final proceedings transferred from the International Tribunal for the Former Yugoslavia pursuant to the statute of the Mechanism and the transitional arrangements (Security Council resolution 1966 (2010), annexes 1 and 2), namely one trial (*Stanišić and Simatović*) and three appeals proceedings (*Karadžić*, *Mladić*, and *Šešelj*).

30. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Trial proceedings in that case commenced on 13 June 2017. Since the beginning of its case-in-chief, the Prosecution has led the evidence of 39 witnesses in court, all but two of whom were cross-examined by the Defence. To expedite the proceedings, the Prosecution tendered the written evidence of 46 witnesses, all of which was admitted. The Prosecution anticipates that it will conclude the presentation of its evidence later in 2018.

31. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia convicted Radovan Karadžić of genocide, crimes against humanity and war crimes and sentenced him to a term of imprisonment of 40 years. During the reporting period, the Office presented its oral appeal arguments during a hearing held on 23 and 24 April 2018. The Prosecution provided its responses to Karadžić's grounds of appeal, and further provided its arguments and replies in relation to the four grounds of appeal.

32. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia acquitted Vojislav Šešelj on all counts of the indictment. On 11 April 2018, the Appeals Chamber of the Mechanism granted in part the Prosecution's appeal and convicted Šešelj for instigating persecution, deportation and other inhumane acts as crimes against humanity and for committing persecution as a crime against humanity. Šešelj was sentenced to 10 years of imprisonment. The Appeals Chamber declared that the sentence had been served in view of Šešelj's time spent in provisional detention.

33. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking, and sentenced him to life imprisonment. The Trial Chamber found Mladić responsible for participating in four joint criminal enterprises to commit genocide, crimes against humanity and/or war crimes and, accordingly, convicted him for the crimes committed in furtherance of those criminal enterprises. First, the so-called "overarching joint criminal enterprise", which existed between 1991 and November 1995, had the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the commission of crimes in municipalities throughout Bosnia and Herzegovina. Second, the so-called "Sarajevo joint criminal enterprise", which existed between May 1992 and November 1995, aimed to spread terror among the civilian population of Sarajevo

through a campaign of sniping and shelling. Third, the so-called "hostage-taking joint criminal enterprise", which existed between 25 May and 24 June 1995, had the common purpose of taking United Nations personnel hostage to compel the North Atlantic Treaty Organization to abstain from conducting air strikes against Bosnian Serb targets. Fourth, the so-called "Srebrenica joint criminal enterprise", which existed in 1995, had the objective of destroying the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children and some elderly men.

34. On 22 March 2018, the Office of the Prosecutor filed its notice of appeal against the trial judgment, identifying two grounds of appeal. On the same date, the Defence also filed its notice of appeal, which sets out nine grounds of appeal. The Office is now preparing its written appeal brief, due on 6 August 2018, which will be followed by its response brief, due on 14 November 2018, and its reply brief.

C. Fugitives

35. As at the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. The Office of the Prosecutor of the Mechanism continued its efforts to locate and arrest the three fugitives whose cases would be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who were expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phénéas Munyarugarama.

36. During the reporting period, valuable new intelligence and leads were generated through the Office's tracking activities and the regular cooperation of participants in the European and African Task Forces. That is allowing the Office to develop a clearer picture of the strategies that the fugitives have put in place, including the use of support networks and seeking the protection of influential persons.

37. The Office reiterates that, under the War Crimes Rewards Programme of the Government of the United States of America, individuals (not including government officials) who provide information leading to the arrest of a fugitive may be eligible for a monetary reward of up to $5 million. The Office recalls that Member States are obligated by international law to cooperate in the search for the fugitives and encourages them to further strengthen their assistance to that vital work.

D. Assistance to national jurisdictions

38. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In line with the completion strategies of the Tribunals, Security Council resolutions 1966 (2010) and 2256 (2015), and the statute of the Mechanism, the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

39. During the reporting period, in relation to Rwanda, the Office received and processed two requests for assistance from two Member States. In total, the Office handed over 9,589 pages of documentation. In relation to the former Yugoslavia, the

Office received 402 requests for assistance from six Member States and three international organizations. Some 309 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 38 by Croatia, 2 by Montenegro and 27 by Serbia. In total, the Office handed over 12,068 documents, comprising more than 300,000 pages, and 347 audio and video files. In addition, the Office filed submissions in relation to 13 applications for variation of witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina. The Office also filed submissions in relation to eight applications for information regarding applicable witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina.

E. Capacity-building

40. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries to prosecute war crimes. The Office's capacity-building efforts focused on East Africa and the countries of the former Yugoslavia. Strengthening national capacities supports the continued implementation of the completion strategies of the Tribunals and further promotes the principle of complementarity and national ownership of post-conflict accountability.

41. The Office focused its capacity-building efforts in particular on strengthening peer-to-peer engagement with criminal justice professionals from around the world on the topic of prosecuting conflict-related sexual violence. Those activities build upon the book entitled "Prosecuting Conflict-Related Sexual Violence at the ICTY", which was produced by the International Tribunal for the Former Yugoslavia and serves as an important component of that Tribunal's legacy. The programmes were organized under the auspices of the Prosecuting Conflict-related Sexual Violence Network, set up through the International Association of Prosecutors and supported by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism.

42. In February 2018, the Office of the Prosecutor conducted an advanced training course in Dakar on investigating and prosecuting international crimes in Central and West Africa. Thirty prosecutors and investigative judges from the Central African Republic, Côte d'Ivoire, Guinea, Mali, the Niger and Senegal participated in the training, which was very well received. A follow-up course in Abidjan, Côte d'Ivoire, is planned for February 2019.

43. In March 2018, in cooperation with the Mission to Bosnia and Herzegovina of the Organization for Security and Co-operation in Europe, the Office of the Prosecutor conducted specialized two-day training courses in Banja Luka and Sarajevo on the use of the Electronic Disclosure Suite for accessing material in the Office's evidence collection. The courses were attended by approximately 50 legal associates and investigators from prosecutors' offices and police investigators working on war crimes cases in Bosnia and Herzegovina.

44. The Ministry of Justice, the Office of the War Crimes Prosecutor and the Judicial Academy of the Republic of Serbia have requested the Office of the Prosecutor of the Mechanism to provide war crimes training to members of the Serbian judicial system. Among other topics, the Office intends to provide training on prosecuting conflict-related sexual violence crimes, using its publication "Prosecuting Conflict-Related Sexual Violence at the ICTY", which has been translated into Bosnian/Croatian/Serbian.

V. Activities of the Registry

45. During the reporting period, the Registry continued to provide administrative, legal, policy and diplomatic support to Mechanism operations.

A. Budget, administration, staffing and facilities

46. In December 2017, by its resolution 72/258, the General Assembly approved a commitment authority amounting to $87,796,600 gross for the maintenance of the Mechanism for one year, in lieu of a biennial budget. In the light of that decision, the Mechanism has developed and is implementing an expenditure reduction plan, with significant cuts in both post and non-post resources, with the great majority of reductions at The Hague branch.

47. The resulting budgetary constraints have left the Mechanism with skeletal staffing levels in many areas, exposing the Mechanism to operational risks and having a negative impact on its ability to perform its mandated activities smoothly and efficiently. Thus, for example, reductions in security and in language support services staff impact the Mechanism's ability to hold more than one proceeding a day and to sit for extended hours, if needed, absent significant advance notice. The reductions being undertaken also require the Mechanism to postpone a variety of planned activities. To achieve further savings, the Mechanism reduced evening and weekend staff access to the premises, reconfigured the housing of staff at The Hague premises to reduce the number of floors in use (thereby saving on the costs of utilities and services), and limited enhancements to the premises to those strictly necessary to respond to security or health and safety concerns.

48. In March 2018, the Mechanism submitted a revised and significantly reduced budget proposal for the biennium 2018–2019. In early July 2018, following the end of the reporting period, the General Assembly, by its resolution 72/258 B, decided to appropriate to the Special Account for the Mechanism a total of $196,024,100 gross for the biennium.

49. During the reporting period, the Mechanism completed the development of a small, self-standing administration. That process was in step with the closure of the International Criminal Tribunal for Rwanda at the end of 2015 and the closure of the International Tribunal for the Former Yugoslavia at the end of 2017. Until the end of 2017, significant administrative support had been provided to the Mechanism by the International Tribunal for the Former Yugoslavia as part of the double-hatting of personnel and cost-sharing arrangements, which had allowed savings and economies of scale. Since January 2018, and for the first time since its inception, the Mechanism has been carrying out its responsibilities without such support. In addition, with regard to both Tribunals, the Mechanism performed residual liquidation activities that had not been completed by the Tribunals.

50. As at 30 June 2018, the Mechanism had a total of 515 staff (on posts and in general temporary assistance positions): 161 at the Arusha branch, including the Kigali sub-office, and 354 at The Hague branch, including the Sarajevo sub-office. The Mechanism's staff comprised nationals of 72 States. Of the staff at the Professional level and above, 58 per cent were women and 42 per cent men, surpassing the Secretary-General's gender parity goals. Approximately 86 per cent of staff were former staff members of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

51. The new premises of the Arusha branch have been in use since 5 December 2016. As part of the post-construction phase, the Mechanism made significant

progress in completing required remedial work and achieved final completion of the project. Particular attention has been devoted to correcting technical defects in the facility built to host the archives of the International Criminal Tribunal for Rwanda. During the reporting period, the Mechanism also continued to assess contractual remedies for the recovery of direct and indirect costs in relation to the project arising from delays and necessary remediation where economically feasible. The Mechanism remains deeply grateful to the United Republic of Tanzania for its steadfast support for the completion of the project and to the Secretariat for its ongoing advice.

52. The Hague branch of the Mechanism and the International Tribunal for the Former Yugoslavia shared premises until the closure of the Tribunal on 31 December 2017. The lease held by the International Tribunal for the Former Yugoslavia was transferred to the Mechanism and negotiations regarding the consolidation of occupancy into a portion of the building are ongoing, given the Mechanism's strong preference to remain at its current premises for reasons of efficiency. The Belgrade sub-office was closed on 22 December 2017, and operations have been consolidated and streamlined with the support of staff in The Hague and in the Sarajevo sub-office, which is the only remaining sub-office in the region.

B. Support for judicial activities

53. The Registry continued to provide support to the Mechanism's judicial activities at both branches throughout the reporting period, despite facing significant reductions in its resources.

54. The Registry processed and disseminated more than 2,132 judicial filings, amounting to more than 22,298 pages. In addition, it facilitated and serviced hearings in the *Stanišić and Simatović* retrial, and supported the *Karadžić*, *Mladić* and *Šešelj* appeal proceedings.

55. The Registry's Language Support Services continued to provide translations of judgments and other documents into Bosnian/Croatian/Serbian, English, French, Kinyarwanda and other languages, as required, as well as conference and consecutive interpretation.

56. The Registry provided assistance, financial and otherwise, to an average of 45 defence teams comprising approximately 100 defence team members. The Registry also expanded the list of qualified counsel who can be assigned to suspects or accused persons under rule 43 (B) of the Rules of Procedure and Evidence, as well as the roster of duty counsel under rule 43 (C) who are available to be assigned to an accused person for the purposes of an initial appearance. In addition, the Registry facilitated and further formalized the process for the recognition of pro bono counsel for convicted persons. The Registry also created a roster for qualified *amicus curiae* prosecutors and investigators available to be appointed in contempt and false testimony proceedings.

57. Pursuant to article 15 (4) of the statute, and consistent with the Mechanism's commitment to efficiency, the Registry continued to maintain rosters of qualified potential staff to ensure that it was prepared to support a trial or appeal in the event of a fugitive being apprehended or an ongoing proceeding resulting in an appeal or retrial.

C. Support for other mandated activities

1. Witness support and protection

58. The Mechanism is responsible for the essential residual function of witness support and protection in relation to thousands of witnesses who have testified in cases completed by the two Tribunals, as well as those witnesses who have appeared or may appear before the Mechanism.

59. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Witness Support and Protection Unit provides security to witnesses by undertaking threat assessments and coordinating responses to security-related requirements. During the reporting period, the Unit also ensured that protected witness information remained confidential, and it continued to contact witnesses regarding the rescission, variation or augmentation of witness protective measures. The Registry implemented 64 judicial orders related to protected witnesses and, at The Hague branch, supported witness activity in the retrial of the *Stanišić and Simatović* case, including by facilitating the appearance of 46 witnesses by June 2018. At the Arusha branch, the Registry made the necessary administrative and logistical arrangements for witness activity related to the hearing in the *Ngirabatware* review case, which is expected to be held in September 2018.

60. As part of the provision of support services to witnesses at the Arusha branch, witnesses continue to receive medical and psychosocial assistance. That assistance is particularly focused on witnesses who were victims of sexual or gender-based violence during the Rwandan genocide.

61. Finally, the witness protection teams at the two branches continue to exchange best practices and use a common information technology platform for their respective witness databases to maximize operational efficiency.

2. Archives and records management

62. With the completion of the transfer of the records of the International Tribunal for the Former Yugoslavia in December 2017, the Mechanism Archives and Records Section is currently responsible for the management of 5,000 linear metres of physical records and approximately 2 petabytes of digital records generated by the two Tribunals.

63. During the reporting period, the Mechanism commenced the ingest of digital records into its digital preservation system. Thus far, 1,100 GB of digital records, including 70,000 files in a variety of formats, have been ingested. The Mechanism Archives and Records Section also completed a preservation assessment survey of the physical records of the International Tribunal for the Former Yugoslavia and initiated a project to repackage maps and artefacts from the Tribunal's judicial archives in accordance with archival standards. In addition, all paper-based records managed by the Arusha branch were relocated to the purpose-built repository in the Lakilaki facility.

64. The Mechanism continued to update the public interfaces to access and search the judicial records of the two Tribunals and the Mechanism which, as at 30 June 2018, contained over 350,000 judicial records, including 12,000 hours of audiovisual recordings. Those records were accessed by more than 20,000 users worldwide during the reporting period.

65. On 27 October 2017, the Mechanism joined in the celebrations of the World Day for Audiovisual Heritage by releasing an introductory video on the audiovisual archives of the Tribunals. In January 2018, the Mechanism Archives and Records

Section launched a standing exhibition at both branches marking the twenty-fifth anniversary of the founding of the International Tribunal for the Former Yugoslavia, and in June 2018, the Section hosted a meeting in The Hague for information managers from international organizations.

66. The Section continues to develop the Mechanism's records and archives governance structure and to support record-keeping practices through the provision of training and advice to Mechanism staff and the administration of the Mechanism's records management system.

3. Enforcement of sentences

67. As at 30 June 2018, the Mechanism was overseeing the enforcement of the sentences of a total of 47 individuals: 30 persons convicted by the International Criminal Tribunal for Rwanda, who were serving their sentences in three States; and 17 persons convicted by the International Tribunal for the Former Yugoslavia, who were serving their sentences in 10 States.

68. During the reporting period, the Mechanism transferred nine persons to enforcement States to serve their sentences. In December 2017, the Mechanism began to oversee the enforcement of sentences in Senegal, with the transfer of four convicted persons from the United Nations Detention Facility in Arusha. In February 2018, an additional four convicted persons were transferred from Arusha to Benin. In June 2018, one person convicted by the International Tribunal for the Former Yugoslavia was transferred to Austria. Therefore, two convicted persons remain at the United Nations Detention Facility in Arusha and five convicted persons remain at the United Nations Detention Unit in The Hague awaiting transfer to an enforcement State. The Mechanism is grateful to Member States that are enforcing sentences and to those that are considering enforcing sentences in the future.

69. The Mechanism continued to closely monitor the security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali, where 12 convicted persons are serving their sentences under the supervision of the Mechanism.

4. Assistance to national jurisdictions

70. The Registry facilitated a significant number of requests by national authorities, or parties to national proceedings, for assistance in connection with national proceedings related to the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Registry processed 188 requests for assistance, including requests to question protected witnesses; to rescind, vary or augment protective measures for witnesses; and to retrieve and transmit confidential and certified material to national authorities.

5. Relocation of acquitted and released persons

71. The Mechanism has continued to deploy focused efforts, including bilateral engagement with potential receiving States and assistance in private relocation efforts, to facilitate sustainable solutions for the resettlement of acquitted and released persons and to provide those still residing in Arusha with relevant assistance. The passing of one of those individuals reduced the number of acquitted and released persons in Arusha to 10. The agreements on the enforcement of sentences with Benin and Mali, as well as the agreement with Senegal, contain specific provisions on the facilitation of the temporary stay of persons released following the completion of their sentences. The Mechanism is grateful to the States concerned and remains appreciative of the ongoing support of the international community in seeking a resolution to that serious problem.

6. Monitoring of referred cases

72. Pursuant to article 6 (5) of its statute, during the reporting period the Mechanism continued to monitor three cases referred to Rwanda through monitors from the Kenyan Section of the International Commission of Jurists. In the *Ntaganzwa* case, trial proceedings are ongoing, while the *Uwinkindi* and *Munyagishari* cases are on appeal. The Mechanism continued to work on establishing a similar monitoring arrangement for the two cases referred to France, which have been monitored by interim monitors from the International Tribunal for the Former Yugoslavia and subsequently the Mechanism. In the *Munyeshyaka* case, on 21 June 2018, the Investigative Chamber of the Paris Court of Appeals upheld the decision to dismiss the proceedings on the basis of insufficient charges. Several appeals have been filed against that decision to the Court of Cassation. The *Bucyibaruta* case continues to be at the investigative/pretrial phase.

7. External relations and information-sharing

73. The External Relations Office continued to raise the profile of the Mechanism and awareness of its mandate by engaging with the diplomatic community, the media, civil society, victims' groups and the public, including in Arusha, Dar es Salaam, The Hague and Sarajevo.

74. The Office facilitated the attendance of the media and the general public at the trial of the *Stanišić and Simatović* case, the appeal hearings in the *Karadžić* and *Šešelj* cases, as well as the public pronouncement of the appeal judgment in the latter case.

75. The Office organized a number of high-profile events, media campaigns and online exhibitions, and produced new public information material and informational videos in several languages. The Mechanism participated in the International Open Day in The Hague on 24 September 2017, with more than 900 individuals visiting its premises. In addition, the Office, in partnership with other Arusha-based international institutions, organized an inaugural International Organizations Open Day at the Mechanism's premises in Arusha on 25 November 2017, which was attended by more than 1,000 visitors. The Mechanism launched an online exhibition on children in conflict, using materials from the Tribunals' archives, as well as an online exhibit showcasing some of the evidence collected by the Office of the Prosecutor during investigations into crimes committed in Rwanda and the former Yugoslavia. Representatives of the Mechanism attended the inauguration of the Information Centre on the International Tribunal for the Former Yugoslavia in Sarajevo on 23 May 2018. The Mechanism is available to provide support to the Centre and other stakeholders in the former Yugoslavia who seek to establish similar information centres in the region.

76. The Mechanism also welcomed more than 5,500 visitors to its premises during the reporting period, including senior government officials such as the Minister of Justice of Rwanda, the Federal Minister for Foreign Affairs of Germany and the Permanent Secretary of the Ministry of Foreign Affairs and East African Cooperation of the United Republic of Tanzania, along with other high-level delegations, including from the Community Court of Justice of the Economic Community of West African States. In addition, the Mechanism continued to provide library services at both branches. The library at the Arusha branch is one of the premier resources for international law research in East Africa and offers an enhanced research environment for Mechanism staff and members of the public.

77. The External Relations Office continued to manage the Mechanism's website, social media accounts and the legacy websites of the Tribunals. During the reporting period, the Mechanism's website was visited over 297,000 times, an increase of over

91 per cent from the previous reporting period. New features have been added to the website, such as an expanded court calendar and selected judicial filings, offering an improved overview of the Mechanism's judicial activity and easier access to its jurisprudence.

VI. Conclusion

78. As reflected in the evaluation report issued by OIOS in March 2018, the Mechanism has made significant progress towards establishing itself as a small, temporary and efficient structure, whose functions and size will diminish over time, with the capacity to respond to varying workloads and balance immediate demands against longer-term priorities. OIOS also recognized that, while the Mechanism is mindful of its mandate to be a temporary entity, some of its functions continue to fulfil long-term needs.

79. The Mechanism's attention to fulfilling those long-term needs and its progress in completing its judicial and other work swiftly, while maintaining the highest of standards, underscore its commitment to the mandate entrusted to it by the Security Council. Even as the Mechanism continues to find itself in a period of intense judicial activity and to tackle challenges resulting from the nature of its work and the resource and operational constraints within which it functions, it will continue to focus on carrying out that mandate in accordance with best practices and in a timely, efficient and effective manner.